

COPY

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DENNIS CLAYPOOL, individually) Civil No. CV04 00570 ACK KSC
and as Guardian Ad Litem for)
KRISTEN CLAYPOOL, a minor,) DEPOSITION OF
SHERYL CLAYPOOL, SCOTT) DAVID WOOLLEY
CLAYPOOL, and KRISTEN CLAYPOOL) March 29, 2005
1:30 p.m.

Plaintiffs,

vs.

CAPTAIN ANDY'S SAILING, INC.,)
BLUE DOLPHIN CHARTERS, LTD.)
and BLUE DOLPHIN DIVING, INC.,)

Defendants.

MATTHEW ISHAM, individually) Civil No. CV04-00559 ACK KSC
and as Guardian Ad Litem for)
HAYDEN ISHAM, a minor,)
ROXANNE BEST ISHAM,)

Plaintiffs,

vs.

BLUE DOLPHIN CHARTERS, LTD.)
and BLUE DOLPHIN DIVING, LTD.,)
CAPTAIN ANDY'S SAILING, INC.,)

Defendants.

In the Matter of) Civil No. CV05-00017 HG LEK
The Complaint of CAPTAIN)
ANDY'S SAILING, INC., a Hawaii)
corporation, as pro hac vice)
owner, and EVANS PACIFIC, LTD,)
a Hawaii corporation, as owner)
of M/V SPIRIT OF KAUAI, O.N.)
995776, for exoneration from)
or limitation of liability.)

-continued-

1 Hawaii.

2 MS. BLACK: I have shown it to my client here,
3 who lives on that island, and he says it looks a little
4 unusual.

5 MR. HILLSMAN: I'm sorry. This is what the good
6 folks at Media Hawaii gave us for a map. If somebody has a
7 NOAA chart of Kauai, we can use that.

8 BY MR. HILLSMAN:

9 Q. If it's really confusing, let me know. I thought
10 I was able to find Port Allen and Mokol'e.

11 A. I can find Port Allen and Mokol'e. As far as
12 that anchorage, if they use the Polihale Heiau, then our
13 anchorage would be south of Makol'e Point.

14 Q. How far from the Polihale Heiau is the anchorage
15 at Mokol'e?

16 A. I don't know. Quarter mile, maybe.

17 Q. How far from the anchorage at Mokol'e did you
18 take way off the vessel to conduct your last narration?

19 A. Excuse me?

20 Q. How far from the anchorage at Mokol'e,
21 distancewise, did you take way off the vessel to conduct
22 your last narration?

23 A. Just outside of it.

24 Q. How far?

25 A. How far offshore?

1 Q. How far from your boat to the anchorage at
2 Mokol'e, the southernmost mooring ball, were you when you
3 conducted that last narration where you took way off the
4 vessel?

5 A. I was maybe -- I would be guessing.

6 Q. Give me your best estimate, based on your actual
7 firsthand observations that day.

8 A. Probably be when I stopped, I would be at the
9 southern end, about where the cave is. Just before that.

10 Q. So returning to my question. By yards or feet or
11 whatever measure of distance you wish to use, how far were
12 you aboard the Spirit from the anchorage at Mokol'e when
13 you made that last narration?

14 A. I was almost right at it.

15 Q. Right next to it, two feet away?

16 A. The anchorage itself, how far offshore from the
17 anchorage? How far south of the anchorage?

18 Q. I don't know why this is so confusing.

19 A. There are two different ways to look at it. You
20 can look at it from going this direction --

21 Q. I don't care about direction now. I'm only
22 talking about distance. I'm not talking about bearing or
23 longitude or latitude.

24 All I'm talking about is the actual physical
25 distance between your position aboard the Spirit of Kauai

1 at the time you gave that narration and the Blue Dolphin's
2 anchorage at Mokol'e? What is your best estimate of that
3 distance?

4 A. I would be guessing. But I'd say 300 yards.

5 Q. And you closed that distance in less than a
6 minute to have impact with Mr. Claypool and Mr. Isham?

7 A. I think so.

8 Q. When you took way off for this narration, how
9 much way did you take off the vessel?

10 A. I came almost to a complete stop. I take it out
11 of gear and talk about it for a second. The boat comes to
12 just about a complete stop. And then I pick the speed up.
13 I bring it back up. Not real fast, because I just don't do
14 that.

15 The boats aren't speed boats. They don't come up
16 to power real fast. It takes some time to get up to power.

17 Q. Typically, how long does a run from Port Allen to
18 Mokol'e take?

19 A. About an hour, 15 minutes, an hour.

20 Q. What is your usual cruising speed during that run?

21 A. Cruising speed, between the Port Allen and
22 Polihale is usually about 18 knots.

23 Q. And what is the power of the Spirit of Kauai?
24 What is her prime mover?

25 A. She is powered by twin 350 horsepower Cummings

1 CERTIFICATE

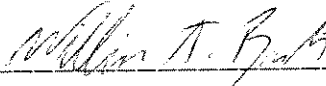
2 STATE OF HAWAII)
3) SS.

4 COUNTY OF HONOLULU)

5 I, WILLIAM T. BARTON, RPR, Certified Shorthand
6 Reporter, State of Hawaii, do hereby certify that on March
7 29, 2005 at 1:30 p.m. there appeared before me DAVID
8 WOOLLEY, the witness whose deposition is contained herein;
9 and that prior to being examined was duly sworn; that I am
10 neither counsel for any of the parties herein, nor
11 interested in any way in the outcome of this action;

12 That the deposition herein was by me taken down in
13 machine shorthand and thereafter reduced to print via
14 computer-aided transcription under my supervision; that the
15 foregoing represents a complete and accurate transcript of
16 the testimony of said witness to the best of my ability.

17 Dated this 7th day of April 2005 at Honolulu, Hawaii.

18 
19 WILLIAM T. BARTON, CSR No. 391

20 Notary Public, State of Hawaii

21 My Commission expires August 7, 2005
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